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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF OREGON
8 PORTLAND DIVISION
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10 ROBERTA KELLY,)
11 Plaintiff,) No. 03:11-cv-00949-HU
12 vs.)
13 C. MARIE ECKERT, *et al.*,) **FINDINGS AND RECOMMENDATION**
14 Defendants.)

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16
17 Roberta Kelly
18 5109 N.E. Ainsworth Street
19 Portland, OR 97218

20 HUBEL, United States Magistrate Judge:

21 This matter was initiated by the plaintiff Roberta Kelly with
22 the filing of a Complaint on August 5, 2011. Dkt. #1. Kelly
23 subsequently filed an application to proceed *in forma pauperis*, a
24 motion for protective order and restraining order, a second motion
25 for protective order and restraining order, and two requests for
26 service of Summons and Complaint. Dkt. ##3-7.

27 On August 11, 2011, the Honorable Anna J. Brown entered an
28 order granting Kelly's application to proceed *in forma pauperis*,

1 but dismissing her Complaint in its entirety. Dkt. #8. Judge
2 Brown found that Kelly had made insufficient factual allegations to
3 establish a violation of any federal or constitutional law, and
4 therefore the court lacked subject matter jurisdiction over the
5 Complaint. Judge Brown further found the court lacked any juris-
6 dictional basis to rule on Kelly's motions for protective order and
7 restraining order, noting the motions appeared to be based on
8 disputes governed solely by Oregon law. *Id.*

9 Judge Brown dismissed the Complaint without prejudice,
10 allowing Kelly leave to file an amended pleading by September 1,
11 2011, "to allege facts that establish this Court has subject-matter
12 jurisdiction and to cure the remaining deficiencies of her
13 Complaint as set forth [in the Order]." *Id.*, p. 8.

14 On August 12, 2011, Kelly filed an Amended Complaint that,
15 among other things, added Judge Brown as a party defendant. Dkt.
16 #11. The case, therefore, was reassigned to the undersigned.

17 On the same date, August 12, 2011, Kelly filed a new case that
18 was assigned case number 03:11-cv-00975-HU. The Complaint in that
19 case was identical in all respects to the Amended Complaint filed
20 by Kelly in the present case. *Compare* Dkt. #1 in No. 03:11-cv-
21 00975-HU *with* Dkt. #11 in No. 03:11-cv-00949-HU. Because the cases
22 involved the same claims and parties, I consolidated the two cases
23 under the first-filed case number. *See* Dkt. #14 in 03:11-cv-00949-
24 HU. I now submit the following Findings and Recommendation for
25 disposition of the consolidated case pursuant to 28 U.S.C.
26 § 636(b)(1)(B).

27 Kelly still has not alleged facts sufficient to establish this
28 court's jurisdiction over her claims. In a paragraph under the

1 heading "Jurisdiction," she states that she is "a sovereign citizen
 2 of both the States of Oregon and Washington," and "of the United
 3 States of America," and she claims she brings this action "under
 4 the provisions of Article III of the United States Constitution."
 5 Dkt. #11, p. 1. She makes no further allegations to establish that
 6 the court has jurisdiction over any of the claims she attempts to
 7 raise in her Complaint. Indeed, her claims are incomprehensible.
 8 She incorporates, by reference, "[t]he voluminous filings" in five
 9 other cases, identified only by number.¹ She makes reference to
 10 "corruption in the courts beginning with Eminent Domain in the
 11 State of Washington," but otherwise makes no factual allegations
 12

13 ¹The cases cited by Kelly include the following:

- 14 • 03:08-cv-01421-AC, an action filed by Kelly to prevent
 15 judicial foreclosure of her home. The case was removed
 16 to this court by the defendant U.S. Bank. Ultimately,
 17 U.S. Bank's motion for summary judgment was granted, and
 18 on December 9, 2010, judgment was entered for the bank.
 19 • "U.S.9Cir. 10-36144" Kelly's appeal to the Ninth Circuit
 20 Court of Appeals of the judgment entered in 03:08-cv-
 21 1421-AC. On July 6, 2011, the appellate court summarily
 22 affirmed the district court's judgment.
 23 • 03:09-cv-01125-KI (D. Or.), an action filed by Kelly
 24 alleging police misconduct in connection with officers'
 25 response to a domestic violence complaint involving Kelly
 26 and her husband. On February 15, 2011, Judge King
 27 dismissed the case with prejudice for Kelly's failure to
 28 comply with orders of the court; specifically, her
 failure to appear for telephone conferences and for a
 show-cause hearing.
 • 03:11-cv-00211-ST, an action filed by Kelly against
 numerous defendants including, among others, Warren
 Buffet. In findings and recommendation that the case be
 dismissed, the Honorable Janice M. Stewart found Kelly's
 Complaint and subsequent motions and statements to be
 "unintelligible." On July 27, 2011, the Honorable Anna
 J. Brown adopted Judge Stewart's recommendation, denied
 all pending motions, and dismissed the case with
 prejudice.
 • "10-36111" - the court is unable to determine in what
 court this case was filed, what claims were made, or the
 current status of the case.

1 against any of the named defendants except Judge Brown. *Id.*, p. 2.
2 As to Judge Brown, Kelly asserts her "Bill of Rights" were
3 "breach[ed]" because Judge Brown did not afford Kelly a hearing on
4 her motions "according to the rule of law." *Id.*, p. 3.

5 Kelly has already been granted the opportunity to amend her
6 pleading. In addition, in Judge Brown's Opinion and Order of
7 August 11, 2011, she advised Kelly that the court would not
8 "address any further actions against judicial officers of this
9 Court who[] are immune to lawsuit for their official acts," nor
10 would the court "consider any further pleadings in this matter
11 until the jurisdiction of this Court has been established."
12 Dkt. #8, pp. 8-9. Kelly has filed several motions in these cases,
13 and she continues to name judges of this court as defendants. Her
14 allegations are incomprehensible, but do not in any way appear to
15 raise claims arising under federal law.

16 As for Kelly's attempt to incorporate by reference all of the
17 filings in her previous cases, Judge Brown noted that "the Court is
18 not obliged to cull through [Kelly's] filings from other cases to
19 determine whether some basis for federal jurisdiction over this
20 matter may be cobbled together." Dkt. #8, p. 7. The same analysis
21 applies to Kelly's renewed attempt to incorporate other case
22 documents by reference in her Amended Complaint.

23 For these reasons, I recommend the consolidated action be
24 dismissed, and all pending motions filed by any party² be denied as
25 moot.

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27 ²On September 9, 2011, Jeffrey S. Cogen filed a motion, Dkt.
28 #12 in Case No. 03:11-cv-00975-HU, to dismiss or in the alternative
for a more definite statement.

SCHEDULING ORDER

These Findings and Recommendation will be referred to a district judge. Objections, if any, are due by **October 3, 2011**. If no objections are filed, then the Findings and Recommendations will go under advisement on that date. If objections are filed, then any response is due by **October 21, 2011**. By the earlier of the response due date or the date a response is filed, the Findings and Recommendations will go under advisement.

IT IS SO ORDERED.

Dated this _14th day of September 2011.

/s/ Dennis J. Hubel

Dennis James Hubel
Unites States Magistrate Judge